City of Seattle

Gregory J. Nickels, Mayor
Department of Planning and Development
Diane M. Sugimura, Director

CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR OF
THE DEPARTMENT OF PLANNING AND DEVELOPMENT

Application Number: 2400073

Applicant Name: Michael Slotemaker for Cingular Wireless

Address of Proposal: 205 19th Avenue East (Littlefield Apartments)

SUMMARY OF PROPOSED ACTION

Master Use Permit (MUP) to establish use for installation of a minor communication utility (Cingular Wireless) consisting of five (5) panel antennas on the rooftop of an existing apartment building. The project includes the addition of an equipment cabinet platform, to be located in the at-grade garage of the building[1].

The following approvals are required:

Administrative Conditional Use Review - to allow a minor communication utility to exceed the height limit in a Multi-Family Residential Lowrise 3 (L-3) zone pursuant to Seattle Municipal Code (SMC) 23.57.011B.

SEPA - Environmental Determination pursuant to SMC 25.05.

SEPA DETERMINATION: [ ] Exempt [ ] DNS [ ] MDNS [ ] EIS

[X] DNS with conditions

[ ] DNS involving non-exempt grading or demolition or involving another agency with jurisdiction.

[1] Equipment location originally proposed at-grade outside in between existing two buildings.

BACKGROUND DATA

Site Location and Description

The subject property, which is developed with a four-story apartment building, a single-family structure, and partially below grade parking garage, is located at the northwest corner of East John Street and 19th Avenue East in the Capitol Hill neighborhood.

Zoning for the site is Multi-Family Residential Lowrise 3 (L-3). The zoning on all surrounding block faces is also L-3.

Proposal Description

The applicant is proposing a rooftop installation of three (3) sectors of antennas, with two antennas in two sectors both attached to the existing elevator penthouse and one sector with one antenna mounted to the roof. The penthouse mounted sectors will be shrouded by simulated brick fiberglass paneling to match the existing brick building façade. The roof mounted sector will also be shrouded by the same simulated brick fiberglass paneling and will be constructed in the shape of a traditional chimney.

The height limit for the L-3 zone is thirty (30) feet above grade, with an exception for minor communication utilities and accessory communication devices permitted to extend beyond that if the requested height is demonstrated to be the minimum necessary for the effective functioning of the utility[2]. An administrative conditional use permit is required to exceed the zone height.

The existing apartment building height is 44.5 feet measured from grade on 19th Avenue (the lowest point of the site) to the roof parapet (the roof parapet is 2.5 feet above the roof surface). The existing elevator penthouse roof peak is 51.5 feet above the 19th Avenue grade. The proposed penthouse mounted antennas and screening will be 54.45 feet and 54.53 feet above grade respectively. The finish height of the proposed penthouse screening will be 4.3 feet above the existing penthouse roof. The proposed penthouse antennas will be mounted at the above heights in order to both give adequate clearance to the existing elevator mechanical equipment service door and to provide adequate service coverage to the surrounding area while avoiding building roof edge interference. The proposed roof mounted antenna and screening will be 53 feet and 53.83 feet above grade respectively. The free standing antenna is also proposed at this height to provide the service coverage required while avoiding building roof edge interference.

Public Comment

The public comment period for this project ended March 10, 2004. No comment letters were received.

[2]Refer to SMC 23.57.011B.4.

ADMINISTRATIVE CONDITIONAL USE

Seattle Municipal Code (SMC) 23.57.011B provides that a minor communication utility, as regulated pursuant to SMC 23.57.002, may be permitted in a Lowrise zone as an Administrative Conditional Use when it meets the development standards of SMC 23.57.011C and the following criteria, as applicable.

1. *The project shall not be substantially detrimental to the residential character of nearby residentially zoned areas, and the facility and the location proposed shall be the least intrusive facility at the least intrusive location consistent with effectively providing service. In considering detrimental impacts and the degree of intrusiveness, the impacts considered shall include but not be limited to visual, noise, compatibility with uses allowed in the zone, traffic, and the displacement of residential dwelling units.*

   The proposed minor communication utility (MCU) will be installed on the roof of an existing 4 story apartment building in an L-3 zone. The applicant has submitted maps of current and proposed service along with written reports from a radio-frequency engineer showing a current service gap in the surrounding area and demonstrating the need for the proposed antennas at the proposed heights at this location to close this gap in service.

   The site is located on the northwest corner of 19th Avenue and East John Street in a neighborhood that consists of a mix of single-family and multi-family structures. The site is on the slight eastern down-slope of this area of Capitol Hill; uphill to the west the adjacent structures are large older single-family structure typical of this neighborhood. Along 19th Avenue there are multi-family structures similar in size to the Littlefield building. The proposed design, size, and heights of the antenna screening, in conjunction with their visibility from the surrounding properties and structures, will render the proposed MCU visually un-obtrusive. Both screening structures will fully screen the proposed antennas, match the building's existing brick exterior, and be capped with a trim painted to match the building's existing painted cornice. These structures, because of their size and materials, will appear to be a part of the existing structure and therefore will be compatible with the allowed uses in the zone.

   There will be no noise impacts from the proposed antennas. There will be minimal noise impacts from the associated electrical equipment. The equipment will be located in an un-used space in the existing at-grade attached garage; no parking spaces will be removed. The acoustical report submitted with this application indicates that this type of electronic equipment normally produces a sound level above the maximum permissible at any nearby residential receiver property line if it were un-enclosed and unblocked by any intervening structures. The proposed location, however, is a masonry wall garage, partially underground and enclosed with wood doors which face the alley, and therefore will provide adequate sound attenuation.

   There will be no traffic impacts or displacement of residential units.

2. *The visual impacts that are addressed in section 23.57.016 shall be mitigated to the greatest extent practicable.*

According to the plans submitted, the proposed antennas will be fully screened from view and be inconspicuous due to the proposed screening structures while remaining functionally effective for service coverage. Therefore, the proposal complies with this criterion.

3. *Within a Major Institution Overlay District, a Major Institution may locate a minor communication utility or an accessory communication device, either of which may be larger than permitted by the underlying zone, when:*
    a.) the antenna is at least one hundred feet (100') from a MIO boundary, and
    b.) the antenna is substantially screened from the surrounding neighborhood's view.

    The proposed site is not located within a Major Institution Overlay District. Therefore, this criterion does not apply to the subject proposal.

4. *If the minor communication utility is proposed to exceed the zone height limit, the applicant shall demonstrate that the requested height is the minimum necessary for the effective functioning of the minor communication utility.*

    The existing building is 44.5 feet in height from the 19th Avenue grade to the top of roof parapet. The top of the exiting elevator penthouse is 51.5 feet above this grade. The height of the proposed penthouse mounted antenna screening is 54.53 feet, while the top of the proposed antennas is 54.45 feet. The top of the free standing antenna screening structure is 52.83 feet, while the top of this antenna is 52.745 feet. Documentation within the MUP file provided by the applicant and discussed in *Proposal Description* above, demonstrates the requested antenna heights is the minimum necessary for the effective functioning of the minor communication utility. The proposed screening heights is the minimum necessary to adequately screen the antennas while allowing for access to the elevator mechanical equipment and proper attachment of the screening to the existing penthouse structure. This proposal, therefore, complies with this criterion.

5. *If the proposed minor communication utility is proposed to be a new freestanding transmission tower, the applicant shall demonstrate that it is not technically feasible for the proposed facility to be on another existing transmission tower or on an existing building in a manner that meets the applicable development standards. The location of a facility on a building on an alternative site or sites, including construction of a network that consists of a greater number of smaller less obtrusive utilities, shall be considered.*

    The proposed minor communication utility will not be a new freestanding transmission tower. Therefore, this criterion does not apply to the subject proposal.

SUMMARY

The proposed project is consistent with the Administrative Conditional Use criteria of the City of Seattle Municipal Code as it applies to wireless communication utilities. The facility is minor in

nature and will not be detrimental to the surrounding area while providing needed and beneficial wireless communications service to the area.

The proposed project will not require the expansion of public facilities and services for its construction, operation and maintenance. Once installation of the facility has been completed, approximately one visit per month would occur for routine maintenance. No other traffic would be associated with the project.

DECISION - ADMINISTRATIVE CONDITIONAL USE

The Conditional Use application is **CONDITIONALLY APPROVED** as noted below.

SEPA ANALYSIS

Environmental review resulting in a Threshold Determination is required pursuant to the State Environmental Policy Act (SEPA), WAC 197-11, and the Seattle SEPA Ordinance (Seattle Municipal Code Chapter 25.05).

The SEPA Overview Policy (SMC 25.05.665 D) clarifies the relationship between codes, policies, and environmental review. Specific policies for each element of the environment, certain neighborhood plans, and other policies explicitly referenced may serve as the basis for exercising substantive SEPA authority. The Overview Policy states, in part: "Where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation," subject to some limitations. Under such limitations/circumstances (SMC 225.05.665 D1-7) mitigation can be considered.

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant and dated February 12, 2004. The information in the checklist, public comment, and the experience of the lead agency with review of similar projects forms the basis for this analysis and decision.

Short-term Impacts

Construction and Noise Impacts

Codes and development regulations applicable to this proposal will provide sufficient mitigation for most impacts. The initial installation of the antennas and the equipment may include loud equipment and activities. This construction activity may have an adverse impact on nearby residences. Due to the close proximity of nearby residences, the Department finds that the limitations of the Noise Ordinance are inadequate to appropriately mitigate the adverse noise impacts associated with the proposal. The SEPA Construction Impacts policies, (SMC 25.05.675.B) allow the Director to limit the hours of construction to mitigate adverse noise and other construction-related impacts. Therefore, the proposal is conditioned to limit construction activity to non-holiday weekday hours between 7:30 a.m. and 6:00 p.m.

Long-term Impacts

Environmental Health

The Federal Communications Commission (FCC) has pre-empted state and local governments from regulating personal wireless service facilities on the basis of environmental effects of radio frequency emissions. As such, no mitigation measures are warranted pursuant to the SEPA Overview Policy (SMC 25.05.665).

The applicant has submitted a "Statement of Federal Communication Commission Compliance for Personal Wireless Service Facility" and an accompanying "Affidavit of Qualification and Certification" for this proposed facility giving the calculations of radiofrequency power density at roof and ground levels expected from this proposal and attesting to the qualifications of the Professional Engineer who made this assessment. This complies with the Seattle Municipal Code Section 25.10.300 that contains Electromagnetic Radiation standards with which the proposal must conform. The City's experience with review of this type of installation is that the EMR emissions constitute a small fraction of that permitted under both Federal standards and the standards of SMC 25.10.300 and therefore pose no threat to public health.

DECISION

This decision was made after review of a completed environmental checklist and other information on file with the responsible department and by the responsible official on behalf of the lead agency. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirement of the State Environmental Policy Act (RCW 43.21.C), including the requirement to inform the public of agency decisions pursuant to SEPA.

[X] Determination of Non-Significance. This proposal has been determined not to have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21.030(2) (c).

[ ] Determination of Significance. This proposal has or may have a significant adverse impact upon the environment. An EIS is required under RCW 43.21C.030(2)C).

ADMINISTRATIVE CONDITIONAL USE CONDITIONS

1. Screening shall be integrated with the architectural design, materials, shapes and colors that are consistent with the current exterior of the building as shown in the photo simulations in the MUP file. The screening shall be constructed of the fiberglass faux brick cladding sample submitted with this application and accompanied by a cornice trim as shown in the submitted photo simulations. The trim shall be painted to match the existing building cornice color. All screening shall extend down to the roof surface to assure full screening from surrounding existing and future uphill structures. Any material changes shall be approved by the project planner.

SEPA CONDITIONS

During Construction - The following condition to be enforced during construction shall be posted at the site in a location on the property line that is visible and accessible to the public and to construction personnel from the each street right-of-way and the alley. The conditions will be affixed to placards prepared by DPD. The placards will be issued along with the building permit set of plans. The placards shall be laminated with clear plastic or other waterproofing material and shall remain posted on-site for the duration of the construction.

2. In order to further mitigate the noise impacts during construction, the hours of construction activity shall be limited to non-holiday weekdays between the hours of 7:30 a.m. and 6:00 p.m. This condition may be modified by DPD to allow work of an emergency nature or allow low noise interior work. This condition may also be modified to permit low noise exterior work after approval from the Land Use Planner.

Signature: (signature on file) Date: October 4, 2004
Art Pederson, Land Use Planner
Department of Planning and Development

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